

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-CV-00372-RJC

ALEXI RICARDO RAMOS

v.

UNITED STATES OF AMERICA

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ORDER

THIS MATTER is before the Court upon motion of Petitioner pro se, (Doc. No. 10), to allow him to file a late reply to the Government's response and motion for summary dismissal, (Doc. No. 7), to his motion to vacate, (Doc. No. 1). Although the deadline to file a reply has passed, the Court has not yet ruled on the Government's motion, and the Government will not be unfairly prejudiced by allowing a late reply.

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Petitioner, who is proceeding pro se, of the heavy burden that he carries in responding to the Government's pleading.

Rule 56(e), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.


This language means that if Petitioner has any evidence to offer to show that there is a genuine issue for trial, he must now present it to this Court in a form which would otherwise be admissible at trial, that is, in the form of affidavits or unsworn declarations. An affidavit is a written statement sworn before a notary public. An unsworn statement, made and signed under

the penalty of perjury, may also be submitted. Affidavits or sworn statements must be presented by Petitioner to this Court within thirty (30) days of the entry of this Order. As stated by Rule 56(e), Petitioner's failure to respond may result in granting summary dismissal of the motion to vacate with prejudice.

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 10), is **GRANTED**. The defendant shall file any reply within 30 days of the entry of this Order.

The Clerk is directed to certify copies of this order to Alexi Ricardo Ramos, Register No. 23056-058, FCI Edgefield, P.O. Box 725, Edgefield, SC 29824, and to the United States Attorney.

Signed: June 9, 2015


Robert J. Conrad, Jr.
United States District Judge

